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Cayman Islands

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac — some 90 miles to the north-east — (15 square miles), and the adjacent and largely undeveloped Little Cayman (11 square miles). In 1997, the population was estimated at 36,600, compared with 25,355 in 1989, representing an average annual increase of about 5 per cent.

2. The results of the national census conducted in October 1999 indicated that the population of the Territory was 40,000. However, according to press reports, this figure was considered to be an undercounting as unofficial estimates placed the population figure at 60,000 to 63,000.[2]

3. Currently, native-born Caymanians comprise about 58 per cent of the population, an estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed. Overall, the cosmopolitan nature of the population is well illustrated by the fact that some 120 different countries of birth outside the Cayman Islands were recorded in the census of 1989. Approximately 95 per cent of the population live on Grand Cayman, which is the site of the capital city of George Town.

II. Constitutional and political developments

4. According to information provided by the administering Power, the present Constitution came into effect on 22 August 1972, and provides for the Government of the Cayman Islands as a colony under the sovereignty of the United Kingdom of Great Britain and Northern Ireland. Since then, a number of interim amendments have been introduced. They included the adoption of a ministerial system of government and the addition of a fifth elected member to the Executive Council. A motion was passed by the islands' legislature in 1990 to review the Constitution. A draft revised constitution was produced in 1992 but never promulgated.

5. Under the present Constitution, the Governor, who is appointed by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor and five members elected by the Legislative Assembly. Constitutionally, the Executive Council is responsible for the administration of government. The Legislative Assembly comprises 3 official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

6. The question whether the Cayman Islands should change from its current system of government headed by a governor to one headed by a chief minister was brought up by executive and legislative officials in meetings with a fact-finding mission of British parliamentarians that visited the Territory in August 2000. These and other concerns were raised in connection with the 1999 White Paper regarding the Territories administered by the United Kingdom. The Head of the British parliamentary delegation emphasized that those were "matters for the Cayman Government and those who elect them to decide".[3]

7. The judicial system is based on British common law, certain British statutes and local statute law. The administering Power states that the independence of the judiciary is an integral component of the economic, social and political stability in the Cayman Islands. There are three levels of courts in the Cayman Islands: the Summary Court, the Grand Court and the Cayman Islands Court of Appeal. Appeals from the Summary Court are heard by the Grand Court and appeals against Grand Court decisions go before the Cayman Islands Court of Appeal. The final right of appeal from a Grand Court decision is to the Privy Council in London, which does not deliver a decision, but advises the Secretary of State about the merits or otherwise of individual appeals. Unlike lawyers in many other British Territories, lawyers in the Cayman Islands may both interview clients and appear on their behalf before the Grand Court (attorneys practice as both solicitor and barrister).

8. Elections in the past have been contested between independents and loose alliances known as "teams". Politics have been run on a basis of consensus. The party system is of recent development.

9. In 1991, the Progressive Democratic Party (PDP) was formed, followed by the National Team one year later. In February 1995, an independent member of the

Legislative Assembly, Gilbert McLean, founded Team Cayman in opposition to the ruling National Team. The National Team retained its majority in the Legislative Assembly in the 1996 general election but its representation was reduced from 11 seats to 9.[4]

A. Elections

10. The general elections held on 8 November 2000 ended the eight-year rule of the National Team. A record number of 57 candidates running for office campaigned independently rather than jointly, as had been the case in the preceding six elections since 1976. The turnout of voters was almost 83 per cent. Six new members were elected to the 15-member Legislative Assembly.

11. In March 1999, a proposal entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" was presented by the Parliament of the administering Power, the United Kingdom, as a White Paper. The objective of this proposal was to modernize the relationship between the administering Power and its Overseas Territories.[5] The main recommendations of the White Paper reiterated by the administering Power, are outlined in chapter VI, "Future political status of the Territory: position of the administering power", paragraphs 90-92.

12. Issues related to the White Paper became the subject of discussion in the Territory in connection with the enactment of a law on homosexuality by the United Kingdom and, on a broader scale, in connection with the forthcoming review of the Constitution.

13. The legalization of homosexuality by the United Kingdom Order of Council in the Cayman Islands encountered strong opposition, even if the Cayman Islands recognized that the requirement to replace the interim laws related to homosexuality was dictated by the requirement that the United Kingdom adhere to the European Convention on human rights.

14. During the last electoral campaign, several candidates called for a review of the White Paper and for an open discussion of its provisions.

B. Constitutional review

15. In February 2001, a team from the United Kingdom Foreign and Commonwealth Office visited the Territory to hold discussions with the Government and the private sector on the "partnership for progress and prosperity" (White Paper) and the forthcoming Constitutional review.

16. In March 2001, the Governor announced that the Constitutional review would be carried out within a nine-month period following extensive public consultation. A Constitutional Review Commission, consisting of three members, would be established. According to the Governor, the review would define a renewed and modernized partnership between the Cayman Islands and the United Kingdom and "will be based on recognition of mutual responsibilities and obligations".

17. In order to assist the process of the Constitutional review, an 18-point constitutional modernization checklist has been presented to the public. It gives an indication of the standards which the Territory should seek to achieve, the obligations that it should strive to meet, and the expectations of the Government of the United Kingdom in key areas of modernization.

18. The constitutional review was widely discussed in the Territory's press. Attention was drawn to the importance for all Caymanians to participate in the discussion of the proposed constitutional changes. In that connection, it was mentioned that the existing Referendum Law made provision for issues of national importance to be put to the people. A number of publications called upon the Territory's authority to undertake a full and sustained education of the public on what the current Constitution offered, what improvements were proposed in 1992 and set aside, and what constitutional modernization would entail.

19. The press pointed out that, in the past, the notion of "constitutional modernization" had been equated with the question of independence. Numerous publications underlined that the public should be educated and should clearly understand the different implications of the forthcoming constitutional review, and in particular of different forms of self-government. An editorial in the *Cayman Net News* stated: "During last November's election there was intense debate about self-government as opposed to full internal self-government. It should be made clear that the former will still leave certain controls with the British Government, while the latter must establish a date for independence, within six months of its declaration".[6]

20. According to press reports, there is a general agreement among the population that an update of the Constitution is needed to ensure transparency and accountability of the government and to empower the people for more active participation in governance.[7]

C. Citizenship

21. The issue of United Kingdom citizenship was also raised during the visit to the Territory of the delegation from the United Kingdom Foreign and Commonwealth Office in February 2001. The delegation explained that the immigration and naturalization practices in all the British Territories, including Cayman Islands, had been examined for the preceding 18 months, since the release of the White Paper. The draft instructions to amend the British Nationality Act in order to offer British citizenship to qualified residents of the Overseas Territories had been prepared. The bill had the support of both parties in the United Kingdom and was expected to be tabled at the 2001/2002 session of Parliament. The delegation assured the representatives of the Territory that the citizenship provisions would not be reciprocal for citizens of the United Kingdom or of European Union countries.

22. On the question of the Cayman Islands immigration policy, the delegation stressed that it was a matter for the Government of the Territory itself to determine. At the same time, the delegates indicated that the Foreign and Commonwealth Office had received many complaints about immigration practices in the Territory, specifically from long-term residents and people of Caymanian descent. Under the local immigration laws, long-term residence in the Cayman Islands does not provide for security of tenure. There are hundreds of residents who have lived in the Territory for more than 10 years and who do not have any prospective of such security. There are also cases of children who were born in the Territory and are considered to be "stateless" because neither of their parents has Caymanian roots.

III. Economic conditions

A. General

23. The Cayman Islands has one of the highest standards of living in the Caribbean, with a per capita gross domestic product (GDP) of US$ 30,120 in 1998. The economy is based on tourism and on the Cayman Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company and bank and trust licence fees and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100:1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

24. In February 2001, the Government requested that the Legislative Assembly approve an amount of $18.78 million in advance of the 2001 budget to continue its operations. This was in addition to the $69.5 million advanced in November 2000. Of the newly approved amount, $7.83 million will be used for cost-of-living adjustment payments to employees; $6.01 million goes to capital development expenditures; $3.46 million is an additional first-quarter subsidy to Cayman Airways on top of the $1.5 million paid in January.

25. The Government that came into office after the November 2000 elections has promised to operate with more transparency. At the beginning of 2001, there was an extensive discussion in the Territory's press of the general state of the economy. Some analysts stated that there was a noticeable decline in business activities in the key sectors. Considerable overdue payments to large and small retailers by individuals and institutions have been reported, which slows down cash flows and stagnates business. At the end of 2000, the Government was also reported to be late in settling its bill of over $6 million with businesses.

B. Agriculture, livestock and fisheries

26. Agricultural activities, limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five/six years, with 10 large farms totalling over 100 acres now in service. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. Responsibility for regulating and

developing the agriculture sector rests with the Cayman Islands Department of Agriculture. The Department provides advisory and technical services in crop and livestock husbandry, carries out extensive activities, conducts and monitors the practice of veterinary medicine and sells agricultural equipment and supplies. The Department also participates on the board of the Cayman Islands Farmers' Cooperative Society Limited, assisting it with strategic and operational matters.

C. Tourism

27. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of the gross domestic product and 75 per cent of foreign currency earnings. The Government's Department of Tourism is charged with supporting the local industry and planning its development. The department markets the island overseas through publicity campaigns and the maintenance of offices in several foreign countries. It also undertakes training programmes for the industry, and carries out licensing and regulatory functions. The Department of Tourism has continued its efforts to diversify and to attract new markets, launching aggressive marketing campaigns in the United Kingdom and the United States of America and opening an office for South America based in Argentina in October 1998.

28. A sustained growth trend in air travel and the cruise industry reflects the popularity of the Cayman Islands as a holiday destination. The resorts maintain an up-market image and offer luxury accommodation. Hotel occupancy is high, especially along Grand Cayman's Seven-Mile Beach. The number of stopover visitors has continued to climb throughout the 1990s, reaching 404,205 stopover visitors in 1998. United States nationals account for more than 70 per cent of total visitors, but the number of Caribbean and Canadian visitors is increasing. Repeat visitors represent 40 per cent of arrivals.[8]

29. The new Government has taken steps to streamline and improve the tourist sector. In January 2001, the Minister of Tourism held a number of meetings with the representatives of the Florida Caribbean Cruise Association, which represents the world's largest cruise companies, including Carnival, Princess and Royal Caribbean. The Minister also discussed with the members of the Cayman Islands Chamber of Commerce ways to improve the services offered by local businesses to cruise ships. The three main areas of concern identified during these meetings were the ban on Sunday and holiday visits by cruise ships, poor tender facilities and the need to upgrade the Spotts landing. The Florida Caribbean Cruise Association was also concerned about the absence of a long-term agreement with the Government of the Cayman Islands. In January 2001, the Minister of Tourism announced his intention to lift the ban on cruise ships visits on Sundays. He also stated that he intended to work together with the business community towards higher standards in the Territory's tourism sector.[9]

30. According to the Director of Tourism, total international tourist arrivals in the Territory in the year 2000 rose by 0.5 per cent, to 1,437,477.[10] With respect to air arrivals, the Minister of Tourism stated, in April 2001, that the figures issued since 1994 had been inaccurate. Owing to concerns over a certain inconsistency between the numbers reported and the corresponding level of economic activity, the Government had requested a comprehensive review of the matter. The review revealed that arrivals had declined annually from 1998 to 2000, rather than having increased, as the reports had indicated. The miscalculation occurred because of the inclusion of such categories of air passengers as returning residents and persons in transit. The correct number of tourists for 1998 was 342,993, 61,212 fewer than the reported 404,205. For 1999, the correct figure was 322,695, 71,839 fewer than the reported 394,534. In 2000, the correct number of arrivals was 316,029 instead of 406,620, a difference of 90,591. The Minister of Tourism indicated that a considerable effort needed to be made to bring the tourism sector back on track and to help it regain focus and productivity.[11]

31. In March 2001, financing for phase one of the $350 million Ritz-Carlton resort and condominium project was completed after the Royal Bank of Scotland approved a $105 million loan. According to the Minister of Tourism, the project is of critical importance to the future of the Territory's tourist industry. Phase one involves the construction of a 366-room hotel, 71 condominium units and a golf course. Phase two, which would be completed in 2005, will include the construction of 300 villas and 12 larger residences.[12]

D. Financial services

32. The Cayman Islands remains among the top international financial centres, with 48 of the world's top 50 banks holding licences there. In 1999, there were 584 licensed banks and trust companies, 473 captive insurance companies and 1,928 registered mutual funds. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of the GDP. The Cayman Islands Stock Exchange began operating in 1997 with the intention of attracting overseas clients. In 1999, 209 issues of securities with a market capital of $20 billion were listed, of which 60 per cent were mutual funds.

33. Overseeing this thriving industry is the Monetary Authority, established in 1997. The Authority is responsible for the supervision of banks and trust companies, and the administration of the Cayman Islands currency. Existing legislation provides the Monetary Authority with the power to take action against registrants or non-registrants. In 1998, the Liabilities Support Law (1997) came into force. The law requires all domestic insurance companies to maintain sufficient assets in the Cayman Islands to match their technical liabilities. In 1998, the Insurance Division performed the first in a series of on-site inspections.

34. The Organisation for Economic Cooperation and Development (OECD) is pressuring offshore centres, including the Cayman Islands, to increase the transparency of their financial system and to support efforts to reduce tax evasion. The Cayman Islands has begun a dialogue with OECD on these matters, and is looking at how best to extend the mutual legal assistance treaty, to which the United Kingdom is a party, to the United States. At present, the treaty does not cover tax crimes. If the mutual assistance treaty were extended, it would allow Cayman Islands courts to work with the United Kingdom and the United States in legal actions against individuals and criminals suspected of tax evasion.[13]

35. In July 2000, OECD published a list of 35 countries and jurisdictions whose financial practices it considered to be conducive to tax evasion and money-laundering. OECD demanded that those practices be mended and threatened to impose sanctions on the individual countries (none of them members of OECD) if they failed to comply. The United Kingdom and its Caribbean Non-Self-Governing Territories solicited an independent review which produced recommendations for each of the Territories.

36. Before the OECD list appeared, the Cayman Islands made an "advance commitment" to OECD which included, in particular, a willingness to enter into discussions about information sharing with other countries. Thus, the Cayman Islands did not appear on the OECD list. However, the Territory was listed among 15 "un-cooperative" countries targeted for possible sanctions by the Financial Action Task Force (FATF). In the case of the Cayman Islands, the major deficiencies of the anti-money-laundering regime pursued by FATF included customer identification, internal reporting and record keeping. At the same time, it was noted that the Territory was a leader in developing anti-money-laundering programmes in the Caribbean.

37. During the period under review, the Government of the Cayman Islands has made considerable efforts to improve its legislation in keeping with the Territory's status as one of the major international financial centres and its sound business reputation. The guidelines that previously existed within a code of practice have become legal requirements. In addition, the following laws were adopted or revised in the year 2000: Monetary Authority Law (2000 revision); Proceeds of Criminal Conduct Law (2000 revision); Money-laundering Regulations 2000; Companies Management Law (2000 revision); and Banks and Trust Companies Law (2000 revision).

38. In February 2001, the Monetary Authority announced new rules requiring all foreign banks licensed in the Territory to have offices and staff in the Cayman Islands and to maintain records or lose their licences. The Cayman Islands stopped issuing licences to so-called "shell banks" in 1992, but 62 such banks were already in existence. The new rule gave them nine months to comply. The other 388 foreign banks licensed in the Territory are subsidiaries of major banks that are supervised in accordance with the regulations of their home jurisdictions and are not affected by the new regulations.[14]

39. In February 2001, the substantial progress made by the Territory was recognized and commended by the FATF Progress Report on Non-Cooperative Countries and Territories. In a letter praising the Territory's efforts, the President of FATF noted, however, that the criteria relating to the existence of anonymous

accounts had still been only partially met. As a result, the Territory, which is host to some 600 banks and trust companies and holds assets worth $600 billion, was not dropped from the list produced by FATF in February 2001.[15]

40. The OECD and FATF actions with respect to low-tax jurisdictions in their quest to eliminate "harmful tax practices" met with a mixed reaction in the financial community.[16] While the need to fight the illegal money-laundering is generally acknowledged by the Governments of the listed jurisdictions, they view the favourable conditions offered to clients by the financial centres as legitimate business competition in the global economy. Moreover, offshore financial centres, including the Cayman Islands, argue that the OECD approach threatens their sovereignty and the right to set their own laws. The fact that OECD threatened sanctions without consultations with the concerned parties is viewed as an additional cause for grievance. Some observers, including certain members of the OECD, describe OECD pressure as discrimination against small countries and an attempt to prohibit capital flow from high-tax nations to low- or no-tax nations.

41. According to reports, the Governments of the targeted countries and Territories have rejected discussing the subject only with OECD, as they would prefer a multilateral forum such as the United Nations.[17] Meetings between OECD and the largest offshore centres, including the Cayman Islands, have not yet achieved any positive results.[18]

E. Transport and communications

Communications

42. The Territory's development as an international business centre has been facilitated by modern and reliable telecommunications and utility services. The multinational company Cable and Wireless holds an exclusive licence for provision of telecommunication through its local Cable and Wireless (Cayman Islands) Ltd.

Airports

43. International air services are provided between Grand Cayman and the United States, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Caymans. Domestic airline services and charters operate between the sister islands of the Caymans.

Seaports

44. The port of George Town, Grand Cayman, was the main gateway for the 869,441 cruise ship visitors who visited the island during 1998. The Cayman Islands are served by scheduled passenger liners, and a number of locally owned or registered vessels provide cargo services between Miami, Tampa and Jamaica. A proposed $12.2 million expansion of the dock facility and surrounding area will enable the Port Authority to handle the ever-increasing volumes of cargo.

45. Following the general election in November 2000, the Tourism, Environment and Transportation Minister asked the Port Authority to review the George Town port development project. Subsequently, a revised plan was drawn up and approved by the Government. The revised plan reduces the size of the cargo terminal, and expands facilities for cruise ships and pleasure boats.[19]

F. Shipping registry

46. The year 1998 saw a record 225 shipping registrations in the 12-month period. In commercial shipping, tonnage growth set another record of 38 per cent. Yacht registrations continued well in 1998, maintaining the Cayman Islands position as the world's leading offshore registry for "superyachts". The shipping registry comprised 1,200 ships in 1999.

47. In June 2000, the Cayman Islands attended the annual meeting of the Red Ensign Group, consisting of the United Kingdom and the Shipping Registers of several British Non-Self-Governing Territories.

G. Water system, sanitation system and utilities

48. The Public Works Department is responsible for maintaining the public and government infrastructure in the three islands. In recent years, it has either undertaken or managed construction projects ranging from the George Town Health Services complex, to the Owen Roberts Airport expansion programme, to the Harquail bypass and the visitors' centre at Pedro Castle to new school buildings.

49. The Caribbean Utilities Company, a local corporation, is responsible for the generation and distribution of electricity, under government franchise, on Grand Cayman, while the Cayman Brac Power Company provides the service for the sister islands. The government-owned company, Water Authority Cayman, and the private Cayman Water Company provide water and sewage services, which complement residents' private wells and cisterns.[20]

IV. Social conditions

A. General

50. According to the administering Power, the aim and effect of legislation and action by the Government in the social sphere is to create a society in which individual effort is rewarded while a cushion is provided, often with voluntary help, for the less fortunate.

51. The Government provides assistance for the elderly and disabled, children and young people, persons with mental illness and learning disabilities, and families in financial need. Major services include residential and day care, home help for those confined at home, other social services for Cayman's youth and women, and drug prevention and rehabilitation programmes. Children's services carried out by the Department of Social Services include adoptions, foster care and the operation of several children's homes.

52. Numerous voluntary and service groups provide assistance to address many social concerns. Many of them are dedicated to specific causes, such as drug prevention and rehabilitation, cancer and the prevention of cruelty to animals. These groups are supported mainly by donations from the Government, the private sector and individuals, and are generally staffed by volunteers.[21]

53. Following the recommendation of the Ministry for Social Welfare, government monetary assistance to the elderly and disabled increased from $250 to $400 per month from the year 2000. Assistance is paid to Caymanians who are 60 years of age and older and who have little or no income, to the disabled and to the handicapped.[22]

B. Human rights

54. The Territory is subject to several major human rights conventions to which the administering Power has acceded. These include the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Second Optional Protocol to the International Covenant on Civil and Political Rights (aiming at the abolition of the death penalty).

55. The administering Power identified, through its above-mentioned White Paper, several human rights issues concerning which it would like to see reforms, in particular, homosexuality and capital punishment.

56. At the end of 2000, the Government of the United Kingdom, which has the final say over legal issues concerning its Territories, unilaterally repealed local laws against homosexuality. The action was enforced through an Order in Council and was undertaken in compliance with the international obligations of the United Kingdom as a member of the European Union. This move triggered a wave of opposition in the Territory. The Cayman Ministers Association took an official stand on the issue. In April 2001, a petition containing 2,450 signatures of residents of the Territory was presented to the Governor.[23]

57. The White Paper also notes that the administering Power expects all Overseas Territories to remove capital punishment for treason and piracy from their statute books. The response of the Government of the Cayman Islands is that capital punishment for treason and piracy is derived from English common law and are not crimes for which there have ever been any prosecutions. Thus, the abolition of the death penalty and substitution of life imprisonment for treason and piracy will have no effect in practice.[24]

C. Housing and construction

58. The Housing Development Corporation Law of 1981 provides for the promotion of housing development by extending mortgage loans to residents in the low- to middle-income bracket. The Government guarantees home mortgages for low- to middle-income

housing. Under the Home Mortgage Scheme, local banks provide up to 100 per cent financing on the strength of a 35 per cent government guarantee. Applicants must be Caymanians with incomes lower than US$ 60,000 per year.

59. There is a building code, which includes provisions to meet earthquake and hurricane hazards and other public safety concerns. An electrical code and plumbing policies have been established, including licensing and inspectorate provisions.

D. Land

60. According to the Department of Land and Survey, some 257 million Cayman Islands dollars (CI$) worth of land changed hands in 2000. While this represented an increase of 17.35 per cent over the value of recorded land transactions in 1999, the number of transactions in 2000 actually decreased, as did tax revenues derived from them. There were 1,868 recorded transfers in 2000, a decrease of 18.5 per cent from 1999. The yearly revenue from stamp duties on real estate transactions was CI$ 25.5 million in 2000, a 12 per cent decline against 1999, when CI$ 29.4 million was collected.

61. The real estate market continued to decline in the first quarter of 2001, when the value of land transactions was 28 per cent lower than in the corresponding period in 2000. First quarter figures from Cayman Brac showed a 26 per cent decline in stamp duty revenues against the first quarter of 2000 (Territory-wide figures are not yet available). Some analysts considered that one of the factors contributing to the high cost of housing was the existing zoning requirement that restricts the density of homes per acre. With this regulation in place, the cost of land alone often constitutes 50 per cent of the construction costs. The analysts who are looking for ways to revitalize the real estate market call upon the Government to allow construction on much smaller lots (6 or 8 per acre), so that more money can be spent on construction itself, which is especially meaningful for households in lower to medium-income brackets.

62. Another factor that negatively affects the construction industry is connected to immigration issues and the current system of work permits. It is believed that those who go to the Territory to work for a limited period of time without having any prospects for acquiring permanent residence status are not inclined to make such long-term commitments as buying a home.

E. Labour

63. The Department of Human Resources is charged with administering the Labour Law. The Law governs the terms and conditions of employment in the Territory. In carrying out that function, the Department, inter alia, provides remedies for the resolution of unfair dismissal and other labour-related disputes; outlines procedures for employers to discipline employees who are guilty of misconduct; provides for the health, safety and welfare of employees; and facilitates the employment of Caymanians. In 1997, the Department handled approximately 250 complaints.

64. The Labour Law provides for 12 weeks of mandatory maternity leave in a year, after 12 months of service, of which four weeks will be paid leave. The leave entitlement is on a pro rata basis for workers with less than 12 months of service. The General Orders (which regulate terms and conditions of employment in the civil service) have been amended to provide for 12 weeks of maternity leave to be granted women in the civil service who have completed 12 months of service.

65. A local trade union, the National Alliance of Cayman Islands Employees (NACE) was formally launched in 1999. It is believed to be the third such local organization since the passage of the Trade Union Law in 1942.[25]

66. The employed labour force is estimated at 21,620, with Caymanians comprising about 51 per cent. Data from Immigration Department indicate that there are some 14,000 work permit holders. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.

F. Education

67. Education is compulsory for all resident children between the age of 4 years 9 months and 16 years. The Government is directly responsible for education within this age group. The system and curriculum are similar to those in the United Kingdom, although the Caymanian system has added some flexibility to allow students to attend colleges in the United States as well

as the United Kingdom. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is government-owned but independently administered. The Cayman Islands Law School is also government-owned, while the College of the Cayman Islands is private.

68. The Government currently operates seven primary schools, one middle school and one alternative education centre on Grand Cayman, as well as three primary schools and a high school, which incorporates the middle-school level, on Cayman Brac. Tuition is free for Caymanians at those schools. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department. In 1999, total enrolment was 4,000 in government schools and 2,093 in private schools.

69. In January 2001, the new Minister of Education, Human Resources and Culture, appointed after the November 2000 election, met with the representatives of the Chamber of Commerce to discuss ways to improve education, training and human resources practices in the Territory. The Minister and Chamber representatives agreed to support three proposals aimed at focused education and training of young people who are expected to join the future labour force: a national mentoring programme, national youth service and the establishment of nationally accepted high-school graduation standards.[26]

G. Public health

70. The Ministry of Health, Social Welfare, Drug Abuse Prevention and Rehabilitation, through the Health Services Department and Cayman Islands Counselling Centre, administers health care in the Cayman Islands. The Health Practitioners Board has responsibility for the registration of private practitioners. In addition to general medical care, a wide range of specialist services is available locally. The Health Services Department is responsible for the provision of all government health care, including public health services. The department operates two hospitals, a public health unit, four district health centres, a dental clinic (including school dental service) and the Lions Eye Clinic. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services.

71. The Public Health Service, which functions under the responsibility of the Ministry of Health, Social Welfare, Drug Abuse Prevention and Rehabilitation, is responsible for primary health services dispensed at district health centres and through various community health programmes. In addition to the community health nursing staff, the team of public health officers includes three district medical officers, a health promotion officer, a genetics counsellor, a nutritionist and a dietician.

72. According to information provided by the administering Power, life expectancy at birth is 77 years in the Territory. The major causes of death were diseases of the circulatory system and malignant neoplasms.

73. The Health Services Department opened a new hospital in George Town in April 1999. The facility includes a state-of-the-art, fully staffed accident and emergency room.[27] Otherwise, there is a 59-bed hospital in George Town and an 18-bed hospital on Cayman Brac, and several district health centres and clinics.

74. According to press reports, 26,000 people in the Territory are covered by health insurance. Of those, about 10,000 are covered by the Government itself. As a result, most residents have at least minimal health care coverage. A health insurance law passed in 1997 established a system of compulsory health insurance for all residents.

75. According to the administering Power, under the Health Services (Fees) Regulations of 1975, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality.

76. In 1997, a law was passed establishing the National Drug Council as an independent, non-profit statutory corporation with the mission of coordinating anti-drug efforts in the Territory. The Council was given the authority to develop policies and programmes to directly reduce the supply of and demand for drugs. It is responsible for coordinating the implementation of the Cayman Islands National Strategic Plan for Drug Abuse Prevention and Rehabilitation. It is also charged with examining ways to curb substance abuse through law enforcement, treatment and rehabilitation, education, public information and community support programmes.

77. A survey by the National Drug Council published at the end of 1998 had found that 11.5 per cent of students had used solvents and 10.5 per cent had used "ganja". The newly appointed drug coordinator noted in September 1999 that Cayman now had a serious substance misuse problem and the National Drug Council would endorse a strategy that called on the family, the community and the social services to work in concert and establish a national strategy to address the issue.

78. In February 2001, the National Drug Council published the results of its survey of the drinking patterns of the Territory's population. It revealed that 35.1 per cent of men between the ages of 15 and 19, 22.4 per cent between the ages of 20 and 29 and 18 per cent between the ages of 30 and 49 engage in heavy alcohol consumption. Medical practitioners consider the survey to be a baseline and that surveys need to be conducted annually to assess the dynamics of the problem.

H. Crime and public safety

79. The Royal Cayman Islands Police force comprises some 250 officers. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers recruited are from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad, Honduras, Bahamas, Nigeria and the United States.

80. Police statistics ending January 2001 indicate an overall reduction in serious crime of 36 per cent, compared with the same period in 2000; burglary showed a 45 per cent reduction; theft was reduced by 54 per cent; and violent offences fell by 53 per cent. The report noted that in some instances, persons arrested for burglary were also convicted for drug-related offences. Police data also show that overall crime detection for the five-year period continues to be over 70 per cent.[28]

V. Environment and natural resources

81. The natural environment of the Cayman Islands is still relatively healthy, although the tremendous rate of economic growth and accompanying physical developments are beginning to place considerable pressure on the delicate island ecosystems. Local laws and regulations and administrative and institutional arrangements which enable the protection and conservation of the natural environment are in place, and efforts are currently under way to strengthen and enhance local legislation. Through the Government of the United Kingdom, the Cayman Islands is party also to a number of legally binding international conservation agreements.[29]

82. The Islands have 25 endemic species of plants and reptiles. On Grand Cayman, a botanical park and bird sanctuary provide safe environments for endangered species of birds and lizards. Little Cayman is host to a wide variety of flora, fauna and birdlife. It also has its own bird sanctuary. Over 200 species of birds have been identified on the Islands. Over the years, the Government of the Cayman Islands has employed a variety of conservation strategies, including the establishment of a system of marine parks and protected areas on land and the development of public education and integrated species conservation. The Department of Environment and the National Trust, which play key roles in the implementation of these programmes, also carry out research and monitoring programmes to support the development of natural environmental policies and new conservation and protection initiatives. Growing public awareness and the development of expertise among government and non-governmental organizations have also contributed to placing local environmental concerns on the national agenda.[30]

83. A new marine pollution law has been drafted to encompass a range of developing legislation covering pollution of the air, sea and coast, pollution by oil, chemicals, garbage, dumping of waste, gas emission and funds for limitation of liability. This new law will also impact the Port Authority and the Department of Environment (with regard, inter alia, to spill response, reception facilities and monitoring prosecution). The Cayman Islands will also be the first Overseas Territory to which the Protocol on Specially Protected Areas and Wildlife will be extended.

84. The Cayman Islands have set a world standard in marine conservation. The Cayman Islands Turtle Farm serves as a breeding ground for the green turtle. After being bred and hatched on the farm, they are released into the ocean. This has led to an increase in the previously diminishing sea turtle population.[31]

85. Environmental health is also an important area of concern to the Government of the Cayman Islands. The

Environmental Health Department carries out its functions through sanitation inspections, solid waste management, recycling programmes and educational and promotional activities. It pursues programmes for mosquito control, including monitoring, larval inspection, wide-ranging techniques and research into the latest control methods.[32]

86. In February 2001, the Government published a draft of the Environmental Charter proposed by the United Kingdom, which is meant to conform to the principles set out in the Rio Declaration on Environment and Development. The draft charter covers such issues as environment and development interface, habitat and species conservation, pollution, energy and technology issues, and natural disasters. It also reflects local legislation, multilateral environmental agreements, environmental impact assessment, funding, education and regional and international links. The draft charter contains guiding principles and commitments for both the United Kingdom and the Cayman Islands related to the environment.

87. The United Kingdom commitments include assistance in building capacity for integrated environmental management, reviewing legislation, sharing relevant information and expertise and ensuring that Territory has the institutional capacity and mechanisms to meet international obligations. The United Kingdom also commits itself to using the Environmental Fund for Overseas Territories and promoting access to other sources of public funding for projects of lasting benefits to the Cayman Islands, as well as helping to identify other funding partners, such as official donors, the private sector and non-governmental organizations. It agrees to invite the Cayman Islands to participate, where appropriate, in the United Kingdom's delegation to international environmental negotiations and conferences.

88. According to the terms of the draft charter, the Government of the Cayman Islands would be committed to inviting the representatives of the Governor's office, governmental departments, industry and commerce and local communities to a forum in order to formulate a detailed strategy for action. In addition, the Government would integrate environmental considerations in its policy planning process, including in economic and social planning, ensure the adoption of adequate legislation, establish effective protection and enforcement mechanisms, protect and restore key habitats and species, encourage environmental education and promote education.[33]

VI. Future political status of the Territory: position of the administering Power

89. In March 1999, the Government of the United Kingdom presented to Parliament a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". Speaking in her capacity as Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Baroness Scotland, on 3 April 2000, reiterated the key recommendations of the Paper as follows:[34]

(a) A redefinition of the relationship between the administering Power and its overseas territories to promote self-determination, responsibilities for both partners, the exercise of democratic practices in the territories to allow the people of the territories the greatest degree of control over their own lives, and the continuance of British help to those overseas territories that need it;

(b) A priority for action in human rights. Those territories that choose to remain British must abide by the same standards of human rights and good governance as demanded of itself by the British Government, while local legislation must reflect the European Convention on Human Rights and the international convention on civil and political rights;

(c) A commitment to nurture and ensure the benefits from having a financial sector and the responsibility and obligation to ensure that the sector is properly regulated, adhering to all international standards of regulation and best practice. As a follow-up to this recommendation, Baroness Scotland made special note of a major consultancy study to review the existing state of financial regulation and organization in the territories set up and jointly funded by the administering Power and the Governments of the five Caribbean Overseas Territories and Bermuda;

(d) Finally, the need for constitutions to be updated to reflect current needs and, as far as possible, lay foundations that will endure for some years ahead. Emphasizing that there must be full consideration and consultation across political parties and the community as a whole, as well as with the administering Power,

Baroness Scotland stated that "We stand ready to consider ideas that have been fully discussed locally, that command wide local support and are appropriate, realistic and compatible with our international obligations and consistent with good government."

90. In addressing the Fourth Committee of the General Assembly on 26 September 2000, the representative of the United Kingdom stated that, over the preceding year, further progress had been made towards the modernization and development of the relationship between the United Kingdom and its overseas Territories. The inaugural meeting of the Overseas Territories Consultative Committee had taken place in 1999, and the second meeting would be held in London on 3 and 4 October 2000. That meeting provided a forum for a structured political dialogue and exchange of views between the elected representatives of the overseas Territories and the United Kingdom Government concerning the management of public affairs and the future development of the overseas Territories. The representative stated that her Government provided support to Territories afflicted by disaster, and offered a wide range of development assistance to those Territories which needed it. At the same time, in the spirit of partnership, it continued to promote sustainable development under strategic country programmes. She stated that, for her Government, the wishes of the peoples concerned, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance. The relationship continued to be based on the principles of self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. She stated that her Government welcomed the efforts made by the Special Committee on decolonization to pursue informal dialogue with the administering Powers in order to ascertain the wishes of the peoples of the Territories with a view to the possible removal of those Territories from the Special Committee's list.[35]

91. On 6 December 2000, Baroness Scotland, Under-Secretary of State for Foreign and Commonwealth Affairs, reaffirmed that the Government of the United Kingdom remained committed to introducing legislation as soon as possible to ensure that the United Kingdom's offer of citizenship, as outlined in the White Paper on Overseas Territories[36] is delivered. She also said that her Government had initiated a consultation process with the Overseas Territories on issues relating to the legislation and its implementation and that her Government would act as soon as the bill became law.[37]

VII. Consideration by the General Assembly

92. On 8 December 2000, the General Assembly adopted resolution 55/144 B, a consolidated resolution on 11 Non-Self-Governing Territories, section V of which is specifically devoted to the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] *Cayman Net News* (www.caymannetnews.com), November 2000 and January 2001.

[3] NewsEDGE/LAN, 30 August 2000.

[4] Economist Intelligence Unit, *Country Profile: Cayman Islands* (2000).

[5] For the text of the White Paper, see A/AC.109/1991/1, annex.

[6] *Cayman Net News* (www.caymannetnews.com), February 2001, No. 2061.

[7] Ibid.

[8] Economist Intelligence Unit, *Country Profile: Cayman Islands* (2000).

[9] Cayman Islands Chamber of Commerce News Bulletin, January 2001.

[10] *Caribbean Insight*, 12 April 2001.

[11] *Cayman Compass*, 17 April 2001.

[12] *Caribbean Insight*, 30 March 2001.

[13] Statement by George McCarthy, Financial Secretary of the Cayman Islands, reported in *Economist Intelligence Unit ViewsWire*, 3 February 2000.

[14] Reuters, 28 February 2001.

[15] Comtex Scientific Corporation, via News EDGE/LAN, 8 February 2001.

[16] The *Miami Herald*, 7 December 2000; *Cayman Net News* (www.caymannetnews.com), January 2001, No. 2050; February 2001, No. 2058; *The Daily Journal from Brussels*, No. 41, 5 March 2001.

[17] *The Daily Journal from Brussels*, No. 41, 5 March 2001.

[18] *Cayman Net News* (www.caymannetnews.com), January 2001, No. 2050.

[19] Ibid.

[20] Cayman Islands, *Annual Report*, 1998.

[21] *Caribbean Insight*, 6 April 2001.

[22] Cayman Islands, *Annual Report*, 1998.

[23] *The Cayman Compass*, 9 August 1999.

[24] *Cayman Net News* (www.caymannetnews.com) 26 April 2001, No. 78.

[25] *The Cayman Compass*, 1 April 1999.

[26] Ibid., 25 October 1999.

[27] Cayman Islands Chamber of Commerce News Bulletin, January 2001.

[28] *The Cayman Compass*, 1 April 1999.

[29] *Cayman Net News* (www.caymannetnews.com), March 2001, No. 2065.

[30] Cayman Islands, *Annual Report*, 1998.

[31] British Overseas Territories White Paper, appendix I.

[32] Cayman Islands, *Annual Report*, 1998.

[33] *The Cayman Compass*, 23 February 2001.

[34] Speech given at a conference on the theme "Overseas territories: into the new millennium" held at Wilton Park, United Kingdom, on 3 April 2000.

[35] See A/C.4/55/SR.5, paras. 1-4.

[36] A/AC.109/1999/1, annex.

[37] Official web site of the United Kingdom Foreign and Commonwealth Office (www.fco.uk/news/newstext.asp?4472).